

HB1417



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB1417

by Rep. Christian L. Mitchell

SYNOPSIS AS INTRODUCED:

725 ILCS 5/113-3.1

from Ch. 38, par. 113-3.1

Amends the Code of Criminal Procedure of 1963. Allows a court, on motion of court-appointed counsel, to conduct a hearing on the amount of payment to court-appointed counsel, in addition to conducting a hearing on the payment on motion of the court or the State's Attorney. Effective immediately.

LRB099 05186 MRW 25216 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 113-3.1 as follows:

6 (725 ILCS 5/113-3.1) (from Ch. 38, par. 113-3.1)

7 Sec. 113-3.1. Payment for Court-Appointed Counsel.

8 (a) Whenever under either Section 113-3 of this Code or
9 Rule 607 of the Illinois Supreme Court the court appoints
10 counsel to represent a defendant, the court may order the
11 defendant to pay to the Clerk of the Circuit Court a reasonable
12 sum to reimburse either the county or the State for such
13 representation. In a hearing to determine the amount of the
14 payment, the court shall consider the affidavit prepared by the
15 defendant under Section 113-3 of this Code and any other
16 information pertaining to the defendant's financial
17 circumstances which may be submitted by the parties. Such
18 hearing shall be conducted on the court's own motion or on
19 motion of the State's Attorney or on motion of court-appointed
20 counsel at any time after the appointment of counsel but no
21 later than 90 days after the entry of a final order disposing
22 of the case at the trial level.

23 (b) Any sum ordered paid under this Section may not exceed

1 \$500 for a defendant charged with a misdemeanor, \$5,000 for a
2 defendant charged with a felony, or \$2,500 for a defendant who
3 is appealing a conviction of any class offense.

4 (c) The method of any payment required under this Section
5 shall be as specified by the Court. The court may order that
6 payments be made on a monthly basis during the term of
7 representation; however, the sum deposited as money bond shall
8 not be used to satisfy this court order. Any sum deposited as
9 money bond with the Clerk of the Circuit Court under Section
10 110-7 of this Code may be used in the court's discretion in
11 whole or in part to comply with any payment order entered in
12 accordance with paragraph (a) of this Section. The court may
13 give special consideration to the interests of relatives or
14 other third parties who may have posted a money bond on the
15 behalf of the defendant to secure his release. At any time
16 prior to full payment of any payment order the court on its own
17 motion or the motion of any party may reduce, increase, or
18 suspend the ordered payment, or modify the method of payment,
19 as the interest of fairness may require. No increase,
20 suspension, or reduction may be ordered without a hearing and
21 notice to all parties.

22 (d) The Supreme Court or the circuit courts may provide by
23 rule for procedures for the enforcement of orders entered under
24 this Section. Such rules may provide for the assessment of all
25 costs, including attorneys' fees which are required for the
26 enforcement of orders entered under this Section when the court

1 in an enforcement proceeding has first found that the defendant
2 has willfully refused to pay. The Clerk of the Circuit Court
3 shall keep records and make reports to the court concerning
4 funds paid under this Section in whatever manner the court
5 directs.

6 (e) Whenever an order is entered under this Section for the
7 reimbursement of the State due to the appointment of the State
8 Appellate Defender as counsel on appeal, the order shall
9 provide that the Clerk of the Circuit Court shall retain all
10 funds paid pursuant to such order until the full amount of the
11 sum ordered to be paid by the defendant has been paid. When no
12 balance remains due on such order, the Clerk of the Circuit
13 Court shall inform the court of this fact and the court shall
14 promptly order the Clerk of the Circuit Court to pay to the
15 State Treasurer all of the sum paid.

16 (f) The Clerk of the Circuit Court shall retain all funds
17 under this Section paid for the reimbursement of the county,
18 and shall inform the court when no balance remains due on an
19 order entered hereunder. The Clerk of the Circuit Court shall
20 make payments of funds collected under this Section to the
21 County Treasurer in whatever manner and at whatever point as
22 the court may direct, including payments made on a monthly
23 basis during the term of representation.

24 (g) A defendant who fails to obey any order of court
25 entered under this Section may be punished for contempt of
26 court. Any arrearage in payments may be reduced to judgment in

1 the court's discretion and collected by any means authorized
2 for the collection of money judgments under the law of this
3 State.

4 (Source: P.A. 88-394.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.